

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5749
OFFERED BY MR. RANGEL OF NEW YORK

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Emergency Extended Unemployment Compensation Act
4 of 2008”.

5 (b) TABLE OF CONTENTS.—The table of contents of
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Federal-State agreements.
- Sec. 3. Emergency unemployment compensation account.
- Sec. 4. Payments to States having agreements for the payment of emergency
unemployment compensation.
- Sec. 5. Financing provisions.
- Sec. 6. Fraud and overpayments.
- Sec. 7. Definitions.
- Sec. 8. Applicability.

7 SEC. 2. FEDERAL-STATE AGREEMENTS.

8 (a) IN GENERAL.—Any State which desires to do so
9 may enter into and participate in an agreement under this
10 Act with the Secretary of Labor (in this Act referred to
11 as the “Secretary”). Any State which is a party to an
12 agreement under this Act may, upon providing 30 days’
13 written notice to the Secretary, terminate such agreement.

1 (b) PROVISIONS OF AGREEMENT.—Any agreement
2 under subsection (a) shall provide that the State agency
3 of the State will make payments of emergency unemploy-
4 ment compensation to individuals who—

5 (1) have exhausted all rights to regular com-
6 pensation under the State law or under Federal law
7 with respect to a benefit year (excluding any benefit
8 year that ended before May 1, 2007);

9 (2) have no rights to regular compensation or
10 extended compensation with respect to a week under
11 such law or any other State unemployment com-
12 pensation law or to compensation under any other
13 Federal law (except as provided under subsection
14 (e)); and

15 (3) are not receiving compensation with respect
16 to such week under the unemployment compensation
17 law of Canada.

18 (c) EXHAUSTION OF BENEFITS.—For purposes of
19 subsection (b)(1), an individual shall be deemed to have
20 exhausted such individual's rights to regular compensation
21 under a State law when—

22 (1) no payments of regular compensation can
23 be made under such law because such individual has
24 received all regular compensation available to such

1 individual based on employment or wages during
2 such individual's base period; or

3 (2) such individual's rights to such compensa-
4 tion have been terminated by reason of the expira-
5 tion of the benefit year with respect to which such
6 rights existed.

7 (d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes
8 of any agreement under this Act—

9 (1) the amount of emergency unemployment
10 compensation which shall be payable to any indi-
11 vidual for any week of total unemployment shall be
12 equal to the amount of the regular compensation
13 (including dependents' allowances) payable to such
14 individual during such individual's benefit year
15 under the State law for a week of total unemploy-
16 ment;

17 (2) the terms and conditions of the State law
18 which apply to claims for regular compensation and
19 to the payment thereof shall apply to claims for
20 emergency unemployment compensation and the
21 payment thereof, except where otherwise inconsistent
22 with the provisions of this Act or with the regula-
23 tions or operating instructions of the Secretary pro-
24 mulgated to carry out this Act; and

1 (3) the maximum amount of emergency unem-
2 ployment compensation payable to any individual for
3 whom an emergency unemployment compensation
4 account is established under section 3 shall not ex-
5 ceed the amount established in such account for
6 such individual.

7 (e) ELECTION BY STATES.—Notwithstanding any
8 other provision of Federal law (and if State law permits),
9 the Governor of a State that is in an extended benefit pe-
10 riod may provide for the payment of emergency unemploy-
11 ment compensation prior to extended compensation to in-
12 dividuals who otherwise meet the requirements of this sec-
13 tion.

14 **SEC. 3. EMERGENCY UNEMPLOYMENT COMPENSATION AC-**
15 **COUNT.**

16 (a) IN GENERAL.—Any agreement under this Act
17 shall provide that the State will establish, for each eligible
18 individual who files an application for emergency unem-
19 ployment compensation, an emergency unemployment
20 compensation account with respect to such individual's
21 benefit year.

22 (b) AMOUNT IN ACCOUNT.—

23 (1) IN GENERAL.—The amount established in
24 an account under subsection (a) shall be equal to the
25 lesser of—

1 (A) 50 percent of the total amount of reg-
2 ular compensation (including dependents' allow-
3 ances) payable to the individual during the indi-
4 vidual's benefit year under such law, or

5 (B) 13 times the individual's average week-
6 ly benefit amount for the benefit year.

7 (2) WEEKLY BENEFIT AMOUNT.—For purposes
8 of this subsection, an individual's weekly benefit
9 amount for any week is the amount of regular com-
10 pensation (including dependents' allowances) under
11 the State law payable to such individual for such
12 week for total unemployment.

13 (c) SPECIAL RULE.—

14 (1) IN GENERAL.—Notwithstanding any other
15 provision of this section, if, at the time that the indi-
16 vidual's account is exhausted or at any time there-
17 after, such individual's State is in an extended ben-
18 efit period (as determined under paragraph (2)),
19 then, such account shall be augmented by an
20 amount equal to the amount originally established in
21 such account (as determined under subsection
22 (b)(1)).

23 (2) EXTENDED BENEFIT PERIOD.—For pur-
24 poses of paragraph (1), a State shall be considered

1 to be in an extended benefit period, as of any given
2 time, if—

3 (A) such a period is then in effect for such
4 State under the Federal-State Extended Unem-
5 ployment Compensation Act of 1970;

6 (B) such a period would then be in effect
7 for such State under such Act if section 203(d)
8 of such Act—

9 (i) were applied by substituting “4”
10 for “5” each place it appears; and

11 (ii) did not include the requirement
12 under paragraph (1)(A); or

13 (C) such a period would then be in effect
14 for such State under such Act if—

15 (i) section 203(f) of such Act were ap-
16 plied to such State (regardless of whether
17 the State by law had provided for such ap-
18 plication); and

19 (ii) such section 203(f)—

20 (I) were applied by substituting
21 ‘6.0’ for ‘6.5’ in paragraph (1)(A)(i);
22 and

23 (II) did not include the require-
24 ment under paragraph (1)(A)(ii).

1 **SEC. 4. PAYMENTS TO STATES HAVING AGREEMENTS FOR**
2 **THE PAYMENT OF EMERGENCY UNEMPLOY-**
3 **MENT COMPENSATION.**

4 (a) GENERAL RULE.—There shall be paid to each
5 State that has entered into an agreement under this Act
6 an amount equal to 100 percent of the emergency unem-
7 ployment compensation paid to individuals by the State
8 pursuant to such agreement.

9 (b) TREATMENT OF REIMBURSABLE COMPENSA-
10 TION.—No payment shall be made to any State under this
11 section in respect of any compensation to the extent the
12 State is entitled to reimbursement in respect of such com-
13 pensation under the provisions of any Federal law other
14 than this Act or chapter 85 of title 5, United States Code.
15 A State shall not be entitled to any reimbursement under
16 such chapter 85 in respect of any compensation to the ex-
17 tent the State is entitled to reimbursement under this Act
18 in respect of such compensation.

19 (c) DETERMINATION OF AMOUNT.—Sums payable to
20 any State by reason of such State having an agreement
21 under this Act shall be payable, either in advance or by
22 way of reimbursement (as may be determined by the Sec-
23 retary), in such amounts as the Secretary estimates the
24 State will be entitled to receive under this Act for each
25 calendar month, reduced or increased, as the case may be,
26 by any amount by which the Secretary finds that the Sec-

1 retary's estimates for any prior calendar month were
2 greater or less than the amounts which should have been
3 paid to the State. Such estimates may be made on the
4 basis of such statistical, sampling, or other method as may
5 be agreed upon by the Secretary and the State agency of
6 the State involved.

7 **SEC. 5. FINANCING PROVISIONS.**

8 (a) IN GENERAL.—Funds in the extended unemploy-
9 ment compensation account (as established by section
10 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of
11 the Unemployment Trust Fund (as established by section
12 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for
13 the making of payments to States having agreements en-
14 tered into under this Act.

15 (b) CERTIFICATION.—The Secretary shall from time
16 to time certify to the Secretary of the Treasury for pay-
17 ment to each State the sums payable to such State under
18 this Act. The Secretary of the Treasury, prior to audit
19 or settlement by the Government Accountability Office,
20 shall make payments to the State in accordance with such
21 certification, by transfers from the extended unemploy-
22 ment compensation account (as so established) to the ac-
23 count of such State in the Unemployment Trust Fund (as
24 so established).

1 (c) ASSISTANCE TO STATES.—There are appro-
2 priated out of the employment security administration ac-
3 count (as established by section 901(a) of the Social Secu-
4 rity Act (42 U.S.C. 1101(a)) of the Unemployment Trust
5 Fund, without fiscal year limitation, such funds as may
6 be necessary for purposes of assisting States (as provided
7 in title III of the Social Security Act (42 U.S.C. 501 et
8 seq.)) in meeting the costs of administration of agree-
9 ments under this Act.

10 (d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—
11 There are appropriated from the general fund of the
12 Treasury, without fiscal year limitation, to the extended
13 unemployment compensation account (as so established)
14 of the Unemployment Trust Fund (as so established) such
15 sums as the Secretary estimates to be necessary to make
16 the payments under this section in respect of—

17 (1) compensation payable under chapter 85 of
18 title 5, United States Code; and

19 (2) compensation payable on the basis of serv-
20 ices to which section 3309(a)(1) of the Internal Rev-
21 enue Code of 1986 applies.

22 Amounts appropriated pursuant to the preceding sentence
23 shall not be required to be repaid.

1 **SEC. 6. FRAUD AND OVERPAYMENTS.**

2 (a) IN GENERAL.—If an individual knowingly has
3 made, or caused to be made by another, a false statement
4 or representation of a material fact, or knowingly has
5 failed, or caused another to fail, to disclose a material fact,
6 and as a result of such false statement or representation
7 or of such nondisclosure such individual has received an
8 amount of emergency unemployment compensation under
9 this Act to which he was not entitled, such individual—

10 (1) shall be ineligible for further emergency un-
11 employment compensation under this Act in accord-
12 ance with the provisions of the applicable State un-
13 employment compensation law relating to fraud in
14 connection with a claim for unemployment com-
15 pensation; and

16 (2) shall be subject to prosecution under section
17 1001 of title 18, United States Code.

18 (b) REPAYMENT.—In the case of individuals who
19 have received amounts of emergency unemployment com-
20 pensation under this Act to which they were not entitled,
21 the State shall require such individuals to repay the
22 amounts of such emergency unemployment compensation
23 to the State agency, except that the State agency may
24 waive such repayment if it determines that—

1 (1) the payment of such emergency unemploy-
2 ment compensation was without fault on the part of
3 any such individual; and

4 (2) such repayment would be contrary to equity
5 and good conscience.

6 (c) RECOVERY BY STATE AGENCY.—

7 (1) IN GENERAL.—The State agency may re-
8 cover the amount to be repaid, or any part thereof,
9 by deductions from any emergency unemployment
10 compensation payable to such individual under this
11 Act or from any unemployment compensation pay-
12 able to such individual under any State or Federal
13 unemployment compensation law administered by
14 the State agency or under any other Federal law ad-
15 ministered by the State agency which provides for
16 the payment of any assistance or allowance with re-
17 spect to any week of unemployment, during the 3-
18 year period after the date such individuals received
19 the payment of the emergency unemployment com-
20 pensation to which they were not entitled, except
21 that no single deduction may exceed 50 percent of
22 the weekly benefit amount from which such deduc-
23 tion is made.

24 (2) OPPORTUNITY FOR HEARING.—No repay-
25 ment shall be required, and no deduction shall be

1 made, until a determination has been made, notice
2 thereof and an opportunity for a fair hearing has
3 been given to the individual, and the determination
4 has become final.

5 (d) REVIEW.—Any determination by a State agency
6 under this section shall be subject to review in the same
7 manner and to the same extent as determinations under
8 the State unemployment compensation law, and only in
9 that manner and to that extent.

10 **SEC. 7. DEFINITIONS.**

11 In this Act, the terms “compensation”, “regular com-
12 pensation”, “extended compensation”, “additional com-
13 pensation”, “benefit year”, “base period”, “State”, “State
14 agency”, “State law”, and “week” have the respective
15 meanings given such terms under section 205 of the Fed-
16 eral-State Extended Unemployment Compensation Act of
17 1970 (26 U.S.C. 3304 note).

18 **SEC. 8. APPLICABILITY.**

19 (a) IN GENERAL.—Except as provided in subsection
20 (b), an agreement entered into under this Act shall apply
21 to weeks of unemployment—

22 (1) beginning after the date on which such
23 agreement is entered into; and

24 (2) ending on or before February 1, 2009.

1 (b) TRANSITION FOR AMOUNT REMAINING IN AC-
2 COUNT.—

3 (1) IN GENERAL.—Subject to paragraphs (2)
4 and (3), in the case of an individual who has
5 amounts remaining in an account established under
6 section 3 as of the last day of the last week (as de-
7 termined in accordance with the applicable State
8 law) ending on or before February 1, 2009, emer-
9 gency unemployment compensation shall continue to
10 be payable to such individual from such amounts for
11 any week beginning after such last day for which the
12 individual meets the eligibility requirements of this
13 Act.

14 (2) LIMIT ON AUGMENTATION.—If the account
15 of an individual is exhausted after the last day of
16 such last week (as so determined), then section 3(c)
17 shall not apply and such account shall not be aug-
18 mented under such section, regardless of whether
19 such individual's State is in an extended benefit pe-
20 riod (as determined under paragraph (2) of such
21 section).

22 (3) LIMIT ON COMPENSATION.—No compensa-
23 tion shall be payable by reason of paragraph (1) for
24 any week beginning after April 30, 2009.